

**IN THE MATTER OF THE POLICE ACT R.S.B.C. 1996, C. 367 AS AMENDED
AND IN THE MATTER OF A REVIEW ON THE RECORD
ORDERED WITH RESPECT TO CONSTABLE GEOFFREY YOUNG OF THE DELTA POLICE
DEPARTMENT**

**REASONS OF THE ADJUDICATOR ON AN APPLICATION TO ADDUCE FURTHER
EVIDENCE PURSUANT TO SECTION 141(4)**

TO: Constable Geoffrey Young
AND TO: Mr. Kevin Woodall, Counsel for Constable Young
AND TO: Mr. Brock Martland, Commission Counsel
AND TO: Chief Constable Len Goerke, Discipline Authority
AND TO: Mr. Stan Lowe, Police Complaint Commissioner

On June 6th, 2018 the Police Complaint Commissioner ordered a Review on the Record of this matter pursuant to section 137(2) and 141 of the *Police Act*. Section 137(2) provides that:

The police complaint commissioner may arrange a review on the record under section 141 [*review on the record*] instead of a public hearing if the police complaint commissioner is satisfied, in the circumstances, that

- (a) it is unnecessary to do either of the following:
 - (i) examine or cross-examine witnesses;
 - (ii) receive evidence that is not part of the record of the disciplinary decision described in section 141 (3) [*review on the record*] or the service record of the member or former member, and
- (b) a public hearing is not required to preserve or restore public confidence in the investigation of misconduct and the administration of police discipline.

Counsel for the member takes the position that the further examination and cross-examination of his client is necessary and has made this application under section 141(4) to have this evidence received. Section 141(4) states that:

Despite subsections (2) and (3) of this section and section 137 (2) (a) [*circumstance when member or former member concerned is entitled to public hearing*], if the adjudicator considers that there are special circumstances and it is necessary and appropriate to do so, the adjudicator may receive evidence that is not part of either of the following:

- (a) the record of the disciplinary decision concerned;
- (b) the service record of the member or former member concerned.

At the original disciplinary hearing Constable Young gave testimony over the course of two days. The 55-page transcript of that evidence is part of the record. At the end of those proceedings with respect to the altered prescriptions, the Discipline Authority found that the appropriate disciplinary or corrective measures should be a written reprimand and an order that the member comply with a drug rehabilitation program. For the false statement to the RCMP officers, he imposed a suspension of four days. It is the Police Complaint Commissioner's view that the Discipline Authority's application of section 126 of the *Police Act* was incorrect. In particular, he is of the view that Chief Constable Goerke erred in his determination that the 10 allegations of falsifying a prescription and one allegation of providing false information to the RCMP were mitigated to such a degree by virtue of Constable Young's addiction to Hydromorphone. Commission counsel has submitted that the appropriate disposition is dismissal. After receiving such a sympathetic hearing from the Disciplinary Authority, it seems the member and his counsel have been caught by surprise by these submissions.

The member seeks to give evidence to counter the suggestion that he says the Commissioner is making that he is incorrigible and has no moral compass. His counsel says that his client is being described as a person of bad character, no better than a common criminal. Though the peril Constable Young now faces may come as a shock, his dismissal was a possibility right from the beginning of these proceedings. Counsel appears to have anticipated the negative views some might have of his client's behaviour since a review of the record shows that he addressed all of these points thoroughly as he presented evidence to the Discipline Authority and led his client through his testimony. The member's painful medical problems were canvassed and admitted by all. There was no suggestion that his addiction to Hydromorphone arose from anything other than his use of the painkillers that had been prescribed to treat these extraordinary health challenges. His work history with its strong emphasis on public service was canvassed, as was the lack of any prior complaints of any sort of misconduct. His thinking

process at the time he made the decisions that gave rise to the findings of misconduct was thoroughly explored. His progress since these events is well documented. None of this is challenged.

As commission counsel has pointed out, it is not the facts that are in issue, but the interpretation of these facts. Surely that is a matter to be dealt with in submissions. Accordingly, I do not find that there are special circumstances and that it is necessary or appropriate to hear further evidence from Constable Young. The application is dismissed.

Dated at Surrey, BC this 14th day of September, 2018

The Honourable Carole Lazar